

IN THE SUPREME COURT OF INDIA

[Order XXI Rule 2(1)]

CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRIMINAL) NO. Of 2026

(PRAYER FOR INTERIM RELIEF)**IN THE MATTER OF**

POSITION OF THE PARTIES			
	Trial court	High court	IN THIS HON'BLE COURT
Gajendra Sharma Son Of Mal Sharma, Aged About 45 Years, Resident Of Village Dudu Police Station DUDU, Dsitrit DUDU, At Present Resident Of House No. -B, gomti Nagar, Toll Tax,, Jaipur (Raj) (At Present Confined In Central Jail Jaipur)	Petitioner	Petitioner	Petitioner
VERSUS			
1.State of Rajasthan through Law Secretary Secretariat Near High court Building	Respondent	Respondent No.1	Respondent no.1 (Contesting)

Jaipur (Rajasthan) 2.Dinesh S/Ram, R/o , Kotwali Bikaner Rajasthan	Respondent No.2	Respondent No.2	Respondent no.2
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PETITION FOR SPECIAL LEAVE TO APPEAL UNDER ARTICLE 136 OF THE CONSTITUTION OF INDIA AGAINST THE IMPUGNED ORDER & JUDGMENT DATED 6.8.2024 IN S.B. CRIMINAL MISC. SUSPENSION OF SENTENCE APPLICATION NO.278/2023 IN S.B CRIMINAL APPEAL (Sb) NO. 3415/2023 PASSED BY THE HON'BLE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, AT JAIPUR.

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA
 AND HIS COMPANION JUDGES OF THE
 SUPREME COURT OF INDIA

THE SPECIAL LEAVE PETITION OF THE PETITIONER
 ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The Petitioner above named respectfully submits this Petition seeking Special Leave to Appeal against the impugned final order and Judgment dated 06.08.2023 passed by the Hon'ble High court of Judicature for Rajasthan at Jaipur Bench Jaipur in S.B. Criminal Misc. Suspension Of Sentence Application No.278/2023 in S.B. Criminal Appeal No.3415/2023, whereby the Hon'ble High Court dismissed the bail of petitioner in above mentioned case.

2. QUESTION OF LAW:

- A. Whether the accused is likely to tamper with the evidence or interfere or attempt to interfere with the due course of justice or evade the due course of justice?
- B. Whether there are reasonable grounds for believing that the accused is guilty of such an offence?
- C. Whether during trial petitioner was on bail has misused liberty of bail ?
- D. Whether those materials are credible or not on the merits. In other non-bailable cases the court will exercise the judicial discretion in dismissing bail subject to 389 of CR.PC?
- E. Whether that order was vitiated by any serious infirmity for which it was right and proper for the High Court, in

the interest of justice, to interfere with his discretion in granting the bail?

- F. Whether relevant evidence will ultimately be held to be trustworthy will be an issue at the stage of hearing appeal in considering the question of bail of an accused in a sentence of six years?

3. DELARATION IN TERMS OF RULE 2(2):

The Petitioners state that no other Petition seeking leave to appeal has been filed by the petitioner against the order dated 06.08.2024 passed by the Hon'ble High court of Judicature for Rajasthan Bench at Jaipur in S.B. Criminal Misc. Suspension Of Sentence Application No.278/2023 in S.B. Criminal Appeal No.3415/2023.

4. DECLARATION IN TERMS OF RULE 4:

The impugned order, annexures P-1 to P-9 produced along with Special Leave Petition are true translated copies and true typed copy of the pleadings/documents, which formed part of the record of the case in the Courts below against whose order, the leave to appeal is sought for in this Petition.

5. GROUNDS

A. That the Hon'ble High Court committed a grave error in dismissing the bail application of accused petitioner. according to him the High Court ignored the well-established principles which guide the courts in exercise of their discretion to grant bail. It is inter alia contended that the High Court overlooked extremely vital evidence collected by the investigating agency and, without assigning any reasons, it dismissed the bail of accused petitioner. The High Court failed to notice that accused petitioner was on bail during trial and petitioner did not misused liberty of bail It is submitted that the High Court's order being perverse must be set aside and the accused must be directed to be released on bail.

B. Because, Hon'ble High Court has failed to consider that that a total of 14 witnesses have been examined on behalf of the prosecution. Prosecution are serious and material contradictions in the evidence of the witnesses, whose evidence does not prove beyond reasonable doubt the crime alleged against the accused. The prosecution has failed to prove the

seizure beyond doubt through its oral and documentary evidence. In the case at hand, information from an informer has been received at Pratap Nagar Police Station and seizure action has been taken by Police Officer Sanganer. There is no written order on file in this regard that action should be taken by Police Station Officer Sanganer.

C. Because the Hon'ble High Court has failed to consider that the No information sent under Section 42 N.D. P.S. Act to higher officers. The information under Section 42 has been sent to the higher authorities by SI Shri Rajesh Gautam, whereas Rajesh Gautam was not posted as the incident police officer in the said Pratap Nagar police station at that time. In the present case, the seizure action has been taken by the Station Officer, Police Station Sanganer. No written order has been presented by the prosecution that Sanganer Police Station Officer Shivratan Godara has been authorized for the seizure, nor has Shivratan Godara sent information under Section 42 to higher officials, nor has a search warrant been

obtained, nor separate section has been made mentioning the reasons for not obtaining the search warrant. Along with the Section 42 information, a copy of the informer information and journal was not sent, nor was any information sent to the higher officials within 72 hours, nor was Rudrapratap Singh, who carried the Section 42 information, given evidence before the court on behalf of the prosecution as been introduced in. Shri Rajesh Gautam was not a legally competent authority to enforce Section 42 NDPS Act.

D. Because, Hon'ble High Court has failed to consider that Section 55 NDPS Act has also not been legally followed by the prosecution. Re-sealing action has not been taken by SHO Pratap Nagar. In the present case, no fard sample seal was made on the spot and later the sample seal was made fraudulently. In the present case, the packets of goods were sent to FSL after a month, no justifiable reason has been presented for delaying the dispatch by one month.

E. Because, Hon'ble High Court has failed to consider that

In the present case, the mandatory provisions of Section 50 NDPS Act have been disregarded because in the notices given to the accused, it has been made clear that there is a third option. Thus, in this case, Section 50 NDPS Act has not been followed by the prosecution.

F. Because, Hon'ble High Court has failed to consider that

In the present case, the provisions of Section 52 NDPS Act have also been violated. Because no sample of the seized goods has been taken in the case before the Magistrate. Section 57 NDPS Information about the Act was not sent to higher officials within the prescribed time period.

G. Because, Hon'ble High Court has failed to consider In

this case, samples have not been taken by the Magistrate and the goods have been sent to FSL with a delay of one month. The FSL report presented in the present case is of another case. In the present case, Rule 189 has been violated i.e. the goods were not sent to FSL within 72 hours by the Research

Officer. There is no concrete evidence in this case even to deliver the goods to FSL.

H. Because, Hon'ble High Court has failed to consider that In the present case, even the material in the case has not been presented and displayed in person in the court. During the personal search of the accused, no goods were recovered from their possession, rather the goods were recovered from the temple, no document related to the ownership of the temple has been presented by the prosecution, in the absence of this, the accused were not in their possession. And recovery of goods from ownership is not proved. In such a situation, even the presumption of Section 35 NDPS Act cannot legally be taken against the accused. The prosecution has failed to prove that the accused were in possession of the temple premises. In the case where the goods were recovered, the accused were neither in their possession nor in their ownership. In the case of seizure, the temple was a public place and anyone could come there for

worshiping. This point was not taken into consideration by the Honourable High Court.

- I.** Because the Hon'ble High Court has failed to consider that the prosecution has also not been able to prove to whom the accused sold the power simulant medicines, that is, no evidence has been presented by the prosecution regarding selling the said medicines. The prosecution has also not been able to prove that the accused were seen while preparing medicines.
- J.** Because the Hon'ble High Court has failed to consider that Both the independent witnesses of the case being declared hostile do not support the prosecution's story and due to the independent witnesses being hostile, the seizure is not supported by the independent witnesses.
- K.** Because the Hon'ble High Court has failed to consider that There was no named information against accused Ram Singh and it is not proved that the seizure site was in the possession of accused Ram Singh. The black bag, which was said to contain narcotics, has not been seized in the case. In this

case, no remains of the seal used in the proceedings were found, it is not proved that the seal was destroyed. The prosecution has not been able to prove its case convincingly.

L. Because the Hon'ble High Court has failed to consider that In the case, the prosecution has not fully complied with the mandatory provisions of Section 42, 50, 55 and 57 of the NDPS Act. It has been prepared improperly. Due to huge contradictions in the statements of the witnesses and the documents displayed, the prosecution case is completely vitiated. The seized goods (issue goods) in the case have not been presented before the court. And neither has been proven. Due to lack of concrete evidence in the case, the prosecution has not been able to prove the case convincingly. Independent witnesses in the case have not confirmed the prosecution story. The entire proceedings of the occasion are fake and all the stories are false. Fair investigation has not been done in the case by the investigation Officer. There are huge contradictions in the statements of the

witnesses examined by the prosecution, hence section 35 and 54 cannot be inferred. On the basis of the above statements and documents, the prosecution has completely failed to prove the crime charged against the accused.

M. Because the Hon'ble High Court has failed to consider that sample has sent to FSL delaying of 1 month whenever the laboratory is situated near the police station. Accordance with law sample should have been sent within the period of 72 hours.

N. Because, petitioner did not file any petition against this order in any courts and tribunal.

6. GROUNDS FOR INTERIM RELIEF

- (a) That the petitioner is married and is shouldered with multifarious responsibility of his family; and belongs to a respectable family and has deep roots in the society.
- (b) That the petitioner is a peace loving and law-abiding citizen and has never been convicted for any offence, therefore, is a person of clean antecedents.

- (c) That the petitioner is ready to furnish the sureties to the satisfaction of this Court; and undertakes to comply with such directions as may be given by this Court; and undertakes to join the investigations as and when required or directed; and undertakes not to tamper with the evidence; and undertakes not to influence the witness if admitted to bail.

7. MAIN PRAYER:

It is, therefore, most respectfully prayed that your Lordships may graciously be pleased to:

- a) Grant Special Leave to Appeal to the Petitioner against the order and Judgment date 06.08.2024 passed by the Hon'ble High Court of Judicature for Rajasthan at Jaipur Bench, at Jaipur in S.B. Criminal Misc. Suspension Of Sentence Application No.278/2023 in S.B. Criminal Appeal No.3415/2023.; and
- b) Pass any other direction/order as this Hon'ble Court may deem fit and proper in the facts & circumstance of the case.

8. PRAYER FOR INTERIM RELIEF:

It is most respectfully prayed that this Hon'ble Court may be pleased to:-

- a) Grant an ex-parte ad-interim stay of the Impugned Order dated 06.08.2024 passed by the Hon'ble High

Court of Judicature for Rajasthan at Jaipur Bench, at Jaipur in S.B. Criminal Misc. Suspension Of Sentence Application No.278/2023 in S.B. Criminal Appeal No.3415/2023.; and

- (b) Release the Petitioner on bail to the satisfaction of Ld. Special Judge NDPS Cases (Session Judge), Jaipur Metropolitan- First in Criminal Case (NDPS) No.66/2017 till the final disposal of this appeal;

AND FOR THIS ACT OF KINDNESS, THE PETITIONER, SHALL AS IN DUTY BOUND, EVER PRAY.

DRAWN

BY:

FILED BY

Name of Advocate----

Name of -----

FILED ON : .10.2024

AOR for Petitioner

DRAWN ON: .10.2024

CC-1234

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRIMINAL) NO. OF 2026

IN THE MATTER OF:

Gajendra Sharma ---PETITIONER

VERSUS

State of Rajasthan & other ---RESPONDENTS

CERTIFICATE

Certified that the Special Leave Petition is confined only to the pleadings before the Court whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Special Leave Petition. It is further certified that the copies of the documents/Annexures attached to the Special Leave Petition are necessary to answer the questions of law raised in the petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon'ble Court. This Certificate is given on the basis of the instructions given by the petitioners/person authorized by the petitioners whose Affidavit is filed in support of the S.L.P.

FILED BY

Place: New Delhi

Advocate for the petitioner

Date: .10.2026

AOR Code-1234

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (Cr1.) NO. OF 2026

IN THE MATTER OF:

Gajendra Sharma ---PETITIONER

VERSUS

State of Rajasthan & other ---RESPONDENTS

AFFIDAVIT

I, Jai Sharma Son of Shri Dineh R/o 222 Garima Colony Road Jaipur Rajasthan, Rajasthan do hereby solemnly affirm and say as follows:-

1. That I am the parokar nephew of present petitioner in the present matter and competent to file affidavit, and I am fully conversant with the facts and circumstances of the case and as such I am competent to swear the present affidavit.
2. That I have gone through the contents of the accompanying Special Leave Petition (Cr1) and CR.MP.s applications and I have understood the same and say that they are true and correct and have been drafted upon my instructions. I say that the same has been drafted on my instructions.
3. That the contents of para 1 to 8 (pages 14 to 27) list of date (B to H) of Special Leave Petition, CR.MPs have been read over and explain to me in correct to my knowledge and belief.
4. That the Annexures accompanying the said petition are true copies of their respective originals.

VERIFICATION:-

Verified,I Jai Sharma, the deponent above named do hereby and state that the contents of the above affidavit are true to the best of my knowledge & belief, no part of it is false and nothing material has been concealed there from.

Deponent